

July 21, 2003

VIA EMAIL AND EXPRESS MAIL

California Energy Commission
Docket Office
Attn: Docket No. 03-CRS-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

**Re: Pacific Gas and Electric Company's Comments On
Proposed Cost Responsibility Surcharge Regulations**

Pacific Gas and Electric Company (PG&E) respectfully submits the following comments on the proposed cost responsibility surcharge regulations.

Thank you for considering our comments. Please feel free to call me at (415) 973-6463 if you have any questions about this matter.

Sincerely,

Les Guliasi

cc: Chairman William J. Keese
Commissioner John L. Geesman
Commissioner James D. Boyd
Commissioner Robert Pernell
Commissioner Arthur H. Rosenfeld
Darcie Houck
Scott Tomashefsky
R.02-01-011 Service List

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of:)	
Proposed Rulemaking Pertaining to)	Docket No. 03-CRS-01
Data Collection for Qualified Departing)	Order No. 03-0528-03
Load CRS Exemptions)	

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
ON PROPOSED COST RESPONSIBILITY SURCHARGE REGULATIONS**

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Proposed Rulemaking Pertaining to)	Docket No. 03-CRS-01
Data Collection for Qualified Departing)	Order No. 03-0528-03
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**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
ON PROPOSED COST RESPONSIBILITY SURCHARGE REGULATIONS**

Pursuant to the “Notice of Renewables Committee Workshop to Consider Cost Responsibility Surcharge Regulations” issued July 2, 2003, in the above-referenced proceeding, Pacific Gas and Electric Company (PG&E) submits these comments on the proposed cost responsibility surcharge (CRS) regulations appended to the “Notice of Proposed Action for Adoption of Regulations Governing Data Collection and Exemptions from Cost Recovery [sic] Surcharge.”

PG&E appreciates the opportunity to comment on the proposed CRS regulations. PG&E understands, as Scott Tomashefsky said at the July 16, 2003 workshop, that the California Energy Commission (CEC) intends its regulations to implement the California Public Utilities Commission’s (CPUC’s) Decision 03-04-030, and not to decide any legal or policy issues that may be raised or unanswered by that decision. Mr. Tomashefsky noted at the workshop, however, that the CEC would be willing to bring any such legal or policy issues to the CPUC’s attention for resolution, as appropriate. With that understanding, PG&E submits the following comments on the CEC’s proposed regulations:

Proposed Section 1395.1 - Rules of Construction and Definitions.

- Subsection (a) defines “backup generation” as electricity generated by a Customer in order to replace the generation lost from that Customer’s normal supply source, usually the Electric Utility. For the sake of clarity and consistency, PG&E suggests the definition be aligned with that of the Public Utilities Code (Section 372(a)(3), which defines “backup generation” as
 - *“...existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided that such emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.”*
- Subsection (b) defines “Best Available Control Technology (BACT)” to mean the maximum degree of emissions reduction achievable after taking into account energy, economic and environmental impacts. PG&E notes that the definition in the Health & Safety Code (Section 40405), *“an emission limitation that will achieve the lowest achievable emission rate for the source to which it is applied,”* is different in that, among other things, it ties the definition to the source.
- Subsection (f) defines cogeneration by reference to the Public Utilities Code section 218.5. Again, for purposes of clarity and consistency, it would be useful to repeat the full definition, adding the following components of the definition:
 - *The sequence can be thermal use followed by power production or the reverse, subject to the following standards:*
 - a. *At least 5 percent of the facility's total annual energy output shall be in the form of useful thermal energy.*

b. Where useful thermal energy follows power production, the useful annual power energy output plus one-half the useful thermal energy output equals not less than 42.5 percent of any natural gas or oil energy input.

- Subsection (i) states “Identification and location of customer applying for exemption shall be deemed confidential pending final determination of eligibility.” The phrase “pending final determination of eligibility” seems to imply that, after eligibility is determined, the information will no longer be confidential. PG&E believes such information should remain confidential even after determination of eligibility.
- Subsection (r) defines “Partial CRS Exemption” as “excluded from paying surcharges associated with the Cost Responsibility Surcharge as defined in subsection (g)(2) and subsection (g)(3).” This is inaccurate for two reasons:
 - First, subsection (g)(2) is the Bond Charge, from which Partial CRS Exemption customers are not exempt; the correct citation is (g)(1), which is Southern California Edison Company’s (SCE’s) Historic Procurement Charge (HPC);
 - Second, some but not all customers are exempt from SCE’s HPC, so it is incorrect to suggest that all Partial CRS Exemption customers are exempt from both the HPC and Power Charge. [See D.03-04-030, Ordering Paragraphs (OP) 8 and 9.]
 - To correct these errors, PG&E recommends simplifying subsection (r) to read: “Partial CRS Exemption” means that Customers are excluded from paying one or more of the surcharges associated with the Cost Responsibility Surcharge as defined in subsection (g) above.

Section 1395.2 - General Requirements for Eligibility.

- Subsection (c)(1) states “The Commission shall deny any CRS Exemption request that is considered Backup Generation or diesel-fired customer generation, consistent with CPUC D.03-04-030.” PG&E does not consider Backup Generation to be “departing

load,” because a backup generator may only parallel momentarily with the utility, and provide the customer with generation during utility outages. The operation of backup generation does not result in any displacement of load that would have been otherwise served by the utility since backup generation operates only when there is a grid outage or during routine testing. Because such a customer does not constitute departing load, there is no need for an exemption.

- Subsection (c)(3) states that the CEC shall approve a Full CRS Exemption if the Customer meets certain criteria. Decision 03-04-030 also requires that these customers should be “under 1 MW in size.” [See D.03-04-030, Conclusion of Law (COL) 7 and OP 7.]
- Subsection (c)(4)(A) sets forth the Partial CRS Exemption for “ultra-clean” customers. However, to the extent Section 1395.1(r) is modified as recommended above (to exclude discussion of the specific CRS elements that customers will be exempt from paying), Section 1395.2(c)(4)(A) should be clarified that this category of customer gets exempt from both SCE’s HPC and DWR’s Power Charge, which are defined in Proposed Section 1395.1(g)(1) and (g)(3). [See D.03-04-030, OP 8.]
- Similarly, Subsection (c)(4)(B) sets forth the Partial CRS Exemption for UC/CSU. Again, to the extent Section 1395.1(r) is modified as recommended above, Section 1395.2(c)(4)(B) should be clarified that this category of customers gets exempt from **only** the Power Charge, not SCE’s HPC. Also, it should be clarified here or in Subsection 4(c) that these caps are **set-asides within the overall 1500 MW cap**, not in addition to the 1500 MW cap. [See D.03-04-030, OP 9 & 11.]
- And similarly, Subsection 4(c) sets forth the Partial CRS Exemption for other customers within the cap. Again, it should be clarified that this category of customers gets exempt from **only** the Power Charge, not SCE’s HPC. [See D.03-04-030, OP 9.]

In addition to these changes, PG&E has the following concerns with the proposed regulations, which Mr. Tomashefsky indicated at the workshop constituted legal or policy issues:

Section 1395.1 - Rules of Construction and Definitions.

- Subsection (l) states “Departing Load does not apply to changes in the distribution of load among accounts as a customer site with multiple accounts, load resulting from the reconfiguration of distribution facilities on the customer site, provided that the changes do not result in a discontinuance or reduction of service from the Utility at that location. It also does not apply to Departing Load that physically disconnects from the utility grid.” This language is taken from D.03-04-030. The last sentence seems to imply that an existing customer that installs a distributed generation unit that serves its entire load, and then disconnects from the grid (i.e., “islands”) is not considered to be Departing Load. However, at least with respect to the Competition Transition Costs (CTC) charge, this is true only in situations where the load served by the islanded DG unit is new or incremental, per Public Utilities Code Section 369. PG&E’s tariff definition of Departing Load (contained in PG&E’s Electric Preliminary Statement, Section BB.C) says nothing about the ability to have existing load exempt from CTCs simply because it is served by an islanded DG unit. PG&E made this point at the July 16, 2002 meeting at the CEC. Moreover, Definition 1.b.(2) of PG&E’s proposed Schedule E-DCG (see Advice E-2375-E, filed with the CPUC on April 17, 2003) specifically excludes only new customer load or incremental load of an existing customer (but not existing load of an existing customer) served by an islanded self-generation unit from the definition of Customer Generation Departing Load, per Public Utilities Code Section 369.

- In the CEC workshops, PG&E has raised the issue of hybrid systems and the exemptions that may be appropriate for them. PG&E asks that the CEC defer making any rules regarding hybrid systems until the CPUC has ruled on the legal issues regarding their eligibility.

Respectfully submitted,

Les Guliassi
Director, State Agency Relations